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November 30, 1995

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

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NOV 30 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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RE: WT Docket No. 95-157; FCC 95-426; Amendment to the Commission's
Rules Regarding a Plan for Sharing the Costs of Microwave Relocations

Dear Mr. Caton:

Enclosed is an original and four copies of the comments the American Gas Association is filing with respect to the above captioned matter. If you have any questions concerning these comments, please contact the person listed below.

Sincerely,

Jeffrey L. Clarke, Esq.
(703) 841-8481

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Before the
Federal Communications Commission
Washington, D.C. 20554

NOV 30 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:

Amendment to the Commission's Rules)	
Regarding a Plan for Sharing the)	WT Docket No. 95-157
Costs of Microwave Relocations)	FCC 95-426

COMMENTS OF THE AMERICAN GAS ASSOCIATION

DOCKET FILE COPY ORIGINAL

Pursuant to sections 1.49, 1.415, and 1.419 of the Commission's Rules, the American Gas Association (A.G.A.) respectfully submits the following comments in regard to the above captioned matter. See Notice of Proposed Rulemaking, 60 Fed. Reg. 55,529 (November 1, 1995).

I. Introduction

A.G.A. is a trade association composed of about 300 natural gas distribution, transmission, gathering and marketing companies in North America, which together account for more than 90 percent of the natural gas delivered in the United States. In addition, 30 natural gas organizations from countries around the world participate in A.G.A.'s international program. A.G.A. member companies rely on continued operation and access to secure communication systems, including microwave systems, to safely monitor and service an extensive array of pipeline and distribution lines throughout the country. The pipelines and distribution systems protected by these communications systems enable gas companies and utilities to supply nearly 24 percent of all energy consumed in the U.S., including natural gas used in commercial, industrial, residential, and transportation sectors. A.G.A., therefore, has a strong

interest in the Commission's proposed changes to its regulations governing the transition of incumbent microwave users out of the 2 GHz band.

II. Comments

A. While Transitioning Incumbent Users Out of the 2 GHz Band, the FCC Should Ensure that Utilities Continue to Have Access to Secure and Reliable Communication Systems

As the FCC is well aware, natural gas pipelines and utilities were extremely concerned with the Commission's initial plans announced several years ago to move incumbent microwave users out the 2 GHz band. The Commission, although rejecting our industry's request that emerging technologies be placed elsewhere, ultimately finalized regulations that provide displaced users with compensation and a reasonable period of time to conduct negotiations with new licensees. A.G.A. continues to support the transition rules adopted by the Commission, which were arrived at through extensive negotiations. We, therefore, are concerned that the Commission's most recent proposal could jeopardize the protections that have already been put in place by the Commission.

In determining what changes, if any, are necessary, the Commission must be careful to balance the continued need of natural gas operators for secure and reliable communications systems against the need to provide certainty to new personal communication licensees. Natural gas operators, through their use of microwave systems, are able to safely monitor the flow of natural gas through an extensive distribution system that crosses virtually every state in the nation. In some circumstances, operators of pipelines, own and maintain systems that cross several

states, bringing them into contact with more than one potential licensee with which to negotiate.

Pipeline operators are very concerned about relying on multiple licensees to compensate them for their displaced systems. In order to provide an appropriate level of safety, communication systems must be interconnected and coordinated so as to provide real time data transmission and control. In order to replace their existing systems, pipeline operators in many circumstances will have to negotiate with more than one licensee and consider how best to interconnect systems provided by multiple parties. These same operators also must negotiate in some cases with unlicensed personal communication service providers.

All of these issues are quite cumbersome and require well thought out responses from pipeline operators seeking to replace company operated communication systems. These companies have come to rely on secure communications systems, and, rightly so, since they are required by federal law to maintain communication systems and operate their pipelines in a safe manner. Despite notions to the contrary, the delay in resolving such issues and reaching agreement with new licensees has been a result of natural gas operators seeking to determine how best to proceed with the complex transition process, not attempts to extract greater financial reward from new licensees.

B. "Comparability" of Systems Should Include Providing Pipeline Operators with State of the Art Equipment and Systems

A.G.A. opposes the Commission's attempt to define "comparability" in a manner that would limit the quality of communication systems provided to pipelines.

In replacing existing systems, incumbent microwave users should be provided with state-of-the art equipment. Pipelines, like other businesses, upgrade systems periodically, acquiring the best equipment available. These businesses should not be required to accept anything less than what they would acquire if they were going to voluntarily replace their systems today. Installing state of the art equipment also is consistent with the Commission's goal of increasing spectrum efficiency and provides greater assurance that systems put in place today will not be obsolete in the near future.

C. The Commission's Reimbursement Regulations Should Not Establish Arbitrary Limits on the Relocation Costs

As proposed by the Commission, reimbursement costs would be capped at \$250,000 per link, plus \$150,000 if a tower is required. We believe that the proposed cap is too low and does not allow for extraordinary circumstances where costs may be much higher. If a cap is appropriate, we believe the Commission should conduct a thorough investigation or survey to determine today's cost and also consider factors that may cause costs to increase in the future. An arbitrarily low cap is likely to result in new licensees refusal to pay a higher amount when in fact the specific requirements of a particular relocation dictate a much more expensive system be put in place. This in turn may deadlock negotiations unnecessarily, even though a more extensive and expensive system is really warranted. The true cost of relocation should relate to the specific type of system and the configuration required to provide comparable service, not an arbitrary figure chosen by the Commission.

D. The Commission Should Not Arbitrarily End Compensation After 2005

Under the Commission's proposal, the cost-sharing approach to compensating licensees would terminate ten years (April, 2005) after the date that voluntary negotiations commence between A and B block licensees. The proposal also would relegate all incumbent users still operating in the 1850 to 1990 MHz band to secondary status as of April 2005. A.G.A. believes that these two proposals are inconsistent. While the first appears to be an incentive for licensees to quickly resolve how best to compensate one another, the latter could act as a disincentive to negotiations with incumbent users, especially for licensees operating systems in rural areas that are not slated for build-out until much later. We, therefore, oppose the proposal to relegate incumbents to secondary status after 2005 because it does not further the goals of expedited negotiations or compensating displaced users.

III. Conclusion

A.G.A. continues to support the Commission's existing transition rules for accommodating displaced incumbent microwave users. We urge the Commission to refrain from altering these regulations in a manner that would reduce or remove the protections that have been put in place by the Commission. We support the Commission's decision to maintain the existing negotiation periods. We, however, believe that designating incumbents as secondary users after 2005 is inconsistent with the goals of accelerating negotiations and compensating displaced users. Given the public interest served by operation of these communication systems, we urge the

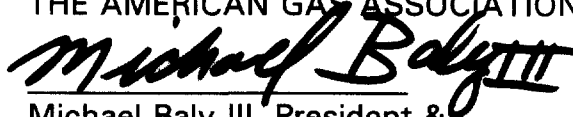
Commission to continue to preserve our industry's access to secure and reliable communication systems.

Respectfully submitted,

THE AMERICAN GAS ASSOCIATION

Dated: November 30, 1995

By:

A handwritten signature in black ink, reading "Michael Baly III". The signature is stylized with a large, flowing "M" and "B", and the "III" is written in a smaller, more formal script.

Michael Baly III, President &
Chief Executive Officer

Jeffrey L. Clarke
Counsel and Technical Advisor

For further information concerning these comments, please contact:

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